United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, MAY 24, 2011 No. 72

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite goodness, creator of the sea, Earth, sky, and air, enable our lawmakers to serve You in all holiness and to experience Your love which passes understanding. Let Your providential hand be over them and Your Holy Spirit ever be with them as they submit themselves entirely to Your will. Lord, direct their thoughts, words, and works to Your glory, as You increase their desire to please You. Give them grace to forgive their enemies, even as You have forgiven them.

Lord, we ask that You would be with all those affected by the recent tornadoes and storms.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PATRIOT SUNSETS EXTENSION ACT OF 2011—Motion to Proceed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1038, which the clerk will report by title.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 1038) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will resume consideration of the motion to proceed to S. 1038, the PATRIOT Act extension, postcloture. There will be a joint meeting of Congress at 11 a.m. with Israeli Prime Minister Netanyahu. Senators should gather in the Senate Chamber at 10:30 to proceed over to the House at about 10:40. We will proceed there as a body.

MEASURES PLACED ON THE CALENDAR—S. 1050, S.J. RES. 13, S.J. RES. 14

Mr. REID. Madam President, I understand there are three measures at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the titles of the bills for a second time.

The legislative clerk read as follows:

A bill (S. 1050) to modify the Foreign Intelligence Surveillance Act of 1978 and to require judicial review of National Security Letters and Suspicious Activity Reports to prevent unreasonable searches, and for other purposes.

A joint resolution (S.J. Res. 13) declaring that a state of war exists between the Government of Libya and the Government and the people of the United States, and making provision to prosecute the same.

A joint resolution (S.J. Res. 14) declaring that the President has exceeded his authority under the War Powers Resolution as it pertains to the ongoing military engagement in Libya.

Mr. REID. I would object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

PRIME MINISTER NETANYAHU'S ADDRESS TO CONGRESS

Mr. MCCONNELL. Madam President, later this morning Israeli Prime Minister Benjamin Netanyahu will address a joint meeting of Congress.

His remarks come at a time of great unrest and instability in the Middle East. So we are all eager to hear his

perspective on how our two countries can work together to further our shared interests. Israel is, of course, a great friend and an ally to the United States, and the Prime Minister should be reassured that Israel will not be alone during this time of uncertainty. He should return home knowing that at a time when the Middle East is awash in instability, his relationship with the Congress is strong. We always welcome the Prime Minister to Washington. We are happy to be able to host him today.

LACK OF A BUDGET

Sometime before the end of this week, Democrats in the Senate will have wrapped up their efforts for the current work period and flown home for the Memorial Day recess. So it is not too early to ask what they have accomplished over the past several weeks. More specifically, what have they done about a looming fiscal crisis in the 6 weeks since one of the cochairs of the President's debt commission called it the most predictable crisis in history?

Well, the short answer is not much. Six weeks after the Democratic cochairman of the President's own debt commission told us that our Nation's deficits and debt are like a cancer that threatens to destroy America from within, and nearly a year after the Chairman of the Joint Chiefs of Staff declared our debt to be the single biggest threat to our national security, Democrats are ready to call it a work period—after producing no budget, after offering no plan, and with no plan in sight.

Why?

Well, evidently Democrats have decided that avoiding this crisis helps them in the next election. That is why they plan to vote against every budget plan that comes to the floor this week, including the President's.

Democrats are apparently operating under the assumption that if they are on the record opposing everything, it helps them politically. So, in other words, we might not leave here this week with a solution to our nation's looming debt crisis, but Democrats are pretty confident they will leave with some good material for campaign ads.

Here is how the senior Senator from New York put it yesterday in a moment of candor:

''To put other budgets out there is not the point,'' he said, ''This issue will have staying power and be a defining issue for 2012.''

They are not even pretending to put principle over politics here. According to Senator SCHUMER, their focus is on an election that is still almost 2 years away.

Well, my suggestion is that Democrats start thinking about putting their names on something other than an attack ad. They could start with a budget. How about that?

Right now, America is on pace to spend about $1.6 trillion more than it takes in this year. That is three times the biggest deficit we ever had before President Obama took office.

The President's plan is to keep deficits like this in place for years to come.

That is the scenario Admiral Mullen and Erskine Bowles are worried about.

Meanwhile, entitlement spending is growing faster than inflation, meaning sooner or later these programs will either consume all the money we have or these programs are forced to change.

Members of the President's own Cabinet admitted this last week when they signed a report showing that Medicare is running out of money and urging prompt reform of the program.

So the question is not whether these programs need reform, the question is how it is done.

Do we do it now, together, or do we wait until we are absolutely forced to do it? There is no other choice.

Congressman RYAN has shown a lot of courage by proposing a budget that would tackle a big part of the problem. Democrats are showing none by ignoring our problems altogether. This is the contrast Americans will see in the Senate this week.

Republicans will vote on several possible approaches to our fiscal crisis this week, including the Ryan plan.

Democrats will vote against every one.

We will also have a vote on the President's budget, which Democrats also plan to oppose.

They say they prefer the ideas the President outlined in a speech he gave last month. Well, unfortunately, we can't vote on a speech. But if that is what it takes to get Democrats engaged in this debate, maybe we should revisit the rules.

More than 2 years have passed since Democrats have produced a budget of their own. This is a complete and total abdication of their responsibilities as a majority party. And there is no excuse for it.

Every year, Congress appropriates nearly $100 million to support the Office of Management and Budget. This money supports a staff of 529 people. OMB's job is to put together a budget. Why exactly haven't they been able to turn the President's speech into a budget we can vote on? They have had 6 weeks to do it. What is the problem?

If Democrats can't get 529 people to put some numbers together based on the budget plan the President outlined in his speech, then they have problems over there. Either that or Democrats are just looking for excuses so they don't have to vote for anything of their own. And they had rather put together political ads than a solution to this crisis. And this is inexcusable.

We have an obligation to our country to come up with a plan. Democrats are officially abdicating that responsibility this week. But Americans will remember. As the crisis approached, Democrats did nothing.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, nearly 10 years after the attacks of September 11, 2001, every one of us in the Senate knows America continues to face threats of terrorism. Our allies know this, as well. The President's dogged pursuit and success earlier this month against Osama bin Laden does not mean we can become complacent or less vigilant. We must remain vigilant and ensure the men and women of our law enforcement and intelligence agencies have all the appropriate tools necessary to protect our Nation and the American people. But as every Vermonter knows, tools are only useful if they are regularly checked and maintained. Otherwise they become blunt instruments that can do harm, rather than accomplish the job.

Congress recognized this basic notion in 2001, when we first wrote the USA PATRIOT Act. I worked with the then-Republican House majority leader, Dick Armey to include sunsets on certain surveillance authorities in the bill. Even though we had vastly different political philosophies, we both agreed we had to have sunset provisions. In 2006, when Congress reauthorized the USA PATRIOT Act, I worked to ensure that certain sunsets were renewed, and added audits on the use of powers with the potential to unnecessarily intrude on the privacy of Americans. We should not give a blank check to anybody—whether it is a Republican or Democratic administration. We are, after all, Americans who believe in our individual liberties.

Having granted the Government broad authority to gather vast amounts of information about the daily lives of Americans, I wanted to do what we could to ensure that unfettered information gathering did not occur at the expense of Americans' basic constitutional rights and civil liberties. The sunsets and audits provide Congress an opportunity to examine whether the PATRIOT Act tools are being used appropriately, and if not, to sharpen, refine, or restrain those tools accordingly.

The audits we added in 2005 or 2006 proved to be very helpful because they identified that there were abuses in the way the PATRIOT Act was being used, specifically with respect to national security letters and the use of ''exigent letters.'' Without this oversight, we probably never would have found out about those abuses. But we found out about them and we worked with the FBI to correct those matters.

That brings us to today. The Senate has the opportunity to reexamine and redefine key PATRIOT Act provisions, and I think we should take that opportunity to make improvements to our

current law. That is why I have led the Senate Judiciary Committee to diligently consider these matters through a series of hearings and meetings. The committee responded by reporting improvements, both last year and again this year, through bipartisan legislation. They are good measures, and we have worked to ensure that they would not compromise the effectiveness of our law enforcement and intelligence capabilities. In fact, much of the language was derived after consultation with the administration, including the intelligence community.

The Attorney General and others have repeatedly assured us that the measures to enhance oversight and accountability—such as audits and public reporting—would not sacrifice ''the operational effectiveness and flexibility needed to protect our citizens from terrorism'' or undermine ''the collection of vital foreign intelligence and counterintelligence information.''

In fact, the Attorney General has consistently said the bill passed out by the Senate Judiciary Committee struck ''a good balance'' by extending the PATRIOT Act authorities while adding accountability and civil liberties protections. For additional detail and legislative history, I refer Senators to the Senate report on the bill reported by the Senate Judiciary Committee this year, Senate Report No. 112–13.

I ask unanimous consent that a December 9, 2010, letter from the Attorney General to me making these points be printed in the RECORD, along with a February 19, 2010, letter from the Director of National Intelligence to House leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Unfortunately, the bill now before the Senate merely extends the expiring authorities to June 1, 2015. Regrettably, these authorities have not been refined since 2006. If that remains the case through the extensions that are contemplated by this bill, it will amount to 9 years of this law without any legislative improvement. I think most of us understand that we can do better. The amendment I have filed seeks to change that by improving the PATRIOT Act.

I appreciate the efforts made by the majority leader to craft a compromise. I am sorry that the Republican leadership in Congress has insisted on an extension of authorities without any improvements. The amendment I have filed and wish to offer along with Senators PAUL, CARDIN, BINGAMAN, COONS, SHAHEEN, WYDEN, FRANKEN, GILLIBRAND, HARKIN, DURBIN, MERKLEY, BOXER, and AKAKA, makes significant improvements to current law, promotes transparency, and expands privacy and civil liberties safeguards.

I ask unanimous consent to have a sectional analysis of the amendment printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LEAHY. One of the improvements Congress should make is to repair a constitutional infirmity in the current law. Three years ago, in Doe v. Mukasey, the U.S. Court of Appeals for the Second Circuit found that the nondisclosure provision of the statute authorizing issuance of national security letters was constitutionally defective. If we do not make a change, that constitutionally defective part of the national security letter provision would remain. As part of the comprehensive set of reforms in the bill reported favorably by the Judiciary Committee, I proposed a simple statutory fix that would enable the FBI to obtain the information it needs, while addressing the constitutional concerns. In fact, this proposal has never been controversial. In fact, during the last Congress, Senator SESSIONS and Senator Bond, the ranking Republicans on the Senate Judiciary and Intelligence Committees, cosponsored a bill incorporating the very legislative remedy I proposed.

This is a straightforward matter that needs to be fixed. The underlying bill does not fix the problem; our amendment would. I trust Senators would not want to proceed to vote on an unconstitutional law, one that violates our fundamental charter as a nation and, of course, the liberty of all Americans. No one who claims to honor the Constitution should proceed in so cavalier a manner. If we are to restore the constitutional underpinning of the NSL authority, the Senate should adopt this needed improvement.

I am also troubled by the refusal of the Republican leadership to agree on periodic audits on the use by the government of PATRIOT Act surveillance authorities. When I speak of the Republican position, I want to mention that this is not uniform within the Republican Party, as there are many Republicans who believe we should have these audits. Basic transparency and accountability are vital to ensuring that the government does not overstep its legal authority. We grant many authorities to our government, but we should do so with the confidence that if the Government oversteps its authority, Congress has the power to bring it back in line. In fact, it is only because of the audits that were mandated by the 2006 PATRIOT Act reauthorization bill that the American public became aware of some of the abuses and misuses of the national security letters, which were significant.

Without that public accountability and congressional oversight, the FBI would not have made improvements to its system of tracking NSL issuance. Because of those audits, we are more confident today that FBI agents are following proper procedures for obtaining private information about Americans—rather than improperly using ''exigent letters'' to circumvent the rules, or using Post-it Notes to keep track of records. Yet the underlying bill omits audits and public reporting; our amendment includes important audit requirements and public reporting to provide accountability and protect Americans' rights.

No one can seriously contend that audits by the inspector general of past operations present any operational concerns to law enforcement or intelligence gathering. Audits do not interfere; they provide accountability and ensure that government follows the rules.

Mr. President, you and I and 98 other Members of this body have to follow the rules. Certainly, those in law enforcement should have to follow the rules, as well. These audits have been demonstrated to be vital oversight tools, and they should be incorporated into the law. The language in our amendment is the product of more than a year and a half of extensive negotiations with Republicans and Democrats, the intelligence community, the Department of Justice. This year, the Senate Judiciary Committee bill won the support of Senator LEE. Last Congress, a virtually identical bill received the votes of Senators KYL and CORNYN and was reported favorably by the Senate Judiciary Committee to the Senate. The bipartisan amendment we seek to offer is a reasonable package of reforms that preserves the ability of the government to use the PATRIOT Act surveillance tools, while promoting transparency, accountability, and oversight.

I have often said that the Senate should not shirk its duty to reexamine carefully and critically the provisions of the PATRIOT Act. We should consider ways to improve the law consistent with our core constitutional principles. That is what I have tried to do. That is what Vermonters expect. I intend to vigilantly guard Americans' privacy and civil liberties, while doing all I can to keep all Americans secure. That is what we expect in Vermont, and I must assume that is what we expect in the other 49 States. Without a single improvement or reform, without even a word that recognizes the importance of protecting the civil liberties and constitutional privacy rights of Americans, the underlying bill represents a missed opportunity. Let us provide our law enforcement and intelligence professionals with the tools they need and give these professionals the security and certainty they need to protect our Nation. But let us also at the same time faithfully perform our duty to protect the constitutional principles and civil liberties upon which this Nation was founded and on which the American people depend.

The vast majority of the 300 million Americans in this great country are law-abiding, honest men and women. We should protect against arbitrarily lumping them all into the category of potential lawbreakers, or enabling the government to search homes or businesses without proper reason. We fought a revolution in this country to stop that from happening, and it is no different today.

One of the things that has kept us so strong as a nation is our ability to protect the individual rights of all Americans. We can go after the lawbreakers, just as we got Osama bin Laden, while at the same time protecting the principles of our country. We must not let the terrorists win by compromising our own rights and liberties in this country. The terrorists who seek to harm us would certainly take away from all of us—women and men alike—the constitutional rights we hold dear. We must not allow that.

The American people expect us both to protect our rights and to keep us safe, and I believe our amendment does just that. That is why I hope all Senators will support the Leahy-Paul amendment.

EXHIBIT 1

Washington, DC, December 9, 2010.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: This responds to your letter of March 17, 2010, which asked the Department of Justice to consider implementing administratively certain enhanced civil liberties protections that were included in S. 1692, the USA PATRIOT Act Sunset Extension Act, as reported by the Senate Judiciary Committee.

In my letter of November 9, 2009, I expressed strong support on behalf of the Department for the bill as reported, which would reauthorize several important Foreign Intelligence Surveillance Act (FISA) authorities while enhancing protections for civil liberties and privacy in the exercise of these essential national security tools.

The bill would reauthorize section 206 of the USA PATRIOT Act, which provides authority for roving surveillance of targets who take steps that thwart FISA surveillance; section 215 of the USA PATRIOT Act, which provides authority to compel production of business records and other tangible things with the approval of the Foreign Intelligence Surveillance Court (the FISA Court); and section 6001 of the Intelligence Reform and Terrorism Prevention Act, which provides authority to target with FISA searches or surveillance non-United States persons who engage in international terrorist activities but are not necessarily associated with an identified terrorist group. Earlier this year, Congress acted to extend the expiring authorities until February 28, 2011. As that date approaches, I strongly urge that Congress again take action to ensure that these provisions remain in force.

Assuming these authorities are reauthorized, the Department has determined that many of the privacy and civil liberties provisions of S. 1692 can be implemented without legislation. Indeed, in a number of instances, we have already taken steps to do so. I am confident that these measures will enhance standards, oversight, and accountability, especially with respect to how information about U.S. persons is retained and disseminated, without sacrificing the operational effectiveness and flexibility needed to protect our citizens from terrorism and facilitate the collection of vital foreign intelligence and counterintelligence information.

NATIONAL SECURITY LETTERS

Your letter seeks our response regarding several matters related to National Security Letters (NSLs): notification to recipients of NSLs of their opportunity to contest the nondisclosure requirement; issuance of procedures related to the collection, use and storage of information obtained in response to NSLs; retention of a statement of specific facts that the information sought is relevant to an authorized investigation; and increased public reporting on the use of NSLs.

You will be pleased to know that as of February 2009, all NSLs are required to include a notice that informs recipients of the opportunity to contest the nondisclosure requirement through the government initiated judicial review. In most cases, this notice is automatically generated by the NSL subsystem. Domestic Investigations and Operations Guide (DIOG) 11.9.3.E. The FBI also will ensure that in any case in which a recipient challenges a nondisclosure order, the recipient is notified when compliance with the order is no longer required. Thus far, there have been only four challenges to the non-disclosure requirement, and in two of the challenges, the FBI permitted the recipient to disclose the fact that an NSL was received. If and when the volume of such requests becomes sufficiently large that solutions beyond ''one-off' notifications are required, the FBI will develop appropriate policies and procedures to notify the recipient when non-disclosure is no longer required.

I also am pleased to report that I approved Procedures for the Collection, Use and Storage of Information Derived from. National Security Letters on October 1, 2010, and these procedures have been provided to the Judiciary and Intelligence Committees. The FBI's current practice is consistent with the procedures and the FBI is working on formal policy to implement them. In addition, DOJ and ODNI will shortly complete work on a joint report to Congress on NSL ''minimization'' as required by the PATRIOT Reauthorization Act of 2005.

As to the information retained internally in connection with the issuance of NSLs, it is current policy for the FBI to retain a statement of specific facts showing that the information sought through NSLs is relevant to an authorized investigation. DIOG §11.9.3.C.

The Department appreciates the desire of the Committee for enhanced public reporting on the use of NSLs. Accordingly, although the FBI cannot provide information regarding subcategories of NSLs in a public setting, it will continue to report publicly the aggregate numbers of NSLs on an annual basis and will evaluate whether any additional information can be publicly reported.

SECTION 215 ORDERS

Your letter also raises a number of matters related to section 215 orders. You seek assurances that the government will not rely on the conclusive presumption in section 215 and will present the FISA Court with a complete statement of facts sufficient to show relevance of the tangible things requested to an authorized investigation. It is current FBI practice to provide the Foreign Intelligence Surveillance Court with a complete statement of facts to support issuance of an order. The FBI is reviewing the DIOG to determine whether changes need to be made to reflect this practice. With respect to section 215 records that contain bookseller records, or are from a library and contain personally identifiable information about a patron of the library, we are prepared to require a statement of specific and articulable facts as would have been required under S. 1692, and to notify Congress should it become necessary to change that practice.

You ask the Department to issue policy guidance providing that certifications accompanying applications for section 215 nondisclosure orders must include an appropriately thorough statement of facts that sets forth the need for nondisclosure. I am pleased to report that this is current FBI practice, and the FBI is reviewing the DIOG to determine whether revisions should be made to reflect this practice.

You also ask the Department to institute guidelines to require court-approved minimization procedures for section 215 orders and pen register and trap and trace (PR/TT) devices. Minimization procedures are already required by statute in relation to section 215 orders. 50 USC 1861(b)(2)(B). The proposal to extend this requirement to PR/TT orders is intended to apply only to certain intelligence collection activities. Procedures governing these operations are currently in effect, having been proposed by the government and approved by the FISA Court.

Finally, you ask the Department to consider providing an annual unclassified report on the use of FISA authorities and the impact on privacy of United States persons. I believe that providing greater transparency regarding the U.S. government's exercise of FISA authorities is an important objective, and will show the care taken by officials to implement and comply with constitutional and statutory requirements to protect the privacy of United States persons. Although the Department has concerns that there may be little additional information that can be provided in an unclassified format and that such unclassified information could be unintentionally misleading, we are prepared to work with the committee and our partners in the Intelligence Community to determine whether there is a way to overcome these difficulties and make additional information publicly available regarding the use of these authorities.

Taken together, I believe these measures will advance the goals of S. 1692 by enhancing the privacy and civil liberties our citizens enjoy without compromising our ability to keep our nation safe and secure.

I hope this information is helpful. The Department stands ready to work with Congress to ensure that the expiring FISA authorities are reauthorized in a timely way.

Sincerely,

ERIC H. HOLDER, Jr.,
Attorney General.

FEBRUARY 19, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MAJORITY LEADER REID AND SPEAKER PELOSI: Over the past several months, Congress has been considering the reauthorization of three important provisions of the Foreign Intelligence Surveillance Act (FISA), which are scheduled to expire on February 28, 2010: section 206 of the USA PATRIOT Act, which provides authority for roving surveillance of targets who take steps to thwart FISA surveillance; section 215 of the USA PATRIOT Act, which provides authority to compel production of business records and other tangible things with the approval of the FISA court; and section 6001 of the Intelligence Reform and Terrorism Prevention Act, which provides authority to target with FISA surveillance non-United States persons who engage in international terrorist activities but are not necessarily associated with an identified terrorist group. National security requires that these provisions reauthorized before they expire.

As discussed in the Attorney General's November 9, 2009 letter, we believe that S. 1692. the USA PATRIOT Act Sunset Extension Act, as reported by the Senate Judiciary Committee, strikes the right balance by both reauthorizing these essential national security tools and enhancing statutory protections for civil liberties and privacy in the exercise of these and related authorities. We

were very pleased that the bill received bipartisan support in the Committee.

Since the bill was reported, we have negotiated a number of specific changes with the sponsors of the bill which we support including in the final version of this legislation. Among these are several provisions derived from the bills reported by the House Judiciary Committee and introduced by House Permanent Select Committee on Intelligence Chairman Silvestre Reyes in November.

We strongly support the prompt consideration of USA PATRIOT Act reauthorization legislation based on S. 1692, together with the changes to which our staffs have informally agreed. However, if Congress is unable to complete work on this measure before these authorities expire, it is imperative that Congress pass a temporary extension of sufficient length to ensure that there is no disruption to the availability of these vital tools in the fight against terrorists.

As was previously noted in a September 14 letter from the Department of Justice to Senator Patrick Leahy, the business records authority has been used to support important and highly sensitive intelligence collection operations, of which both Senate and House leadership, as well as Members of the Intelligence and Judiciary Committees and their staffs are aware. We can provide additional information to Members concerning these and related operations in a classified setting.

Finally, we remain committed to working with Congress to examine additional ways to enhance protection for civil liberties and privacy consistent with effective use of these important authorities.

The Office of Management and Budget has advised us that there is no objection to this letter from the perspective of the Administration's program.

Sincerely,

ERIC H. HOLDER, Jr.
DENNIS C. BLAIR.

EXHIBIT 2

SECTION-BY-SECTION SUMMARY OF SA334 TO S.1038 THE LEAHY-PAUL-CARDIN-BINGAMAN-COONS-SHAHEEN-WYDEN-FRANKEN-GILLIBRAND-HARKIN-DURBIN-MERKLEY-BOXER-AKAKA AMENDMENT (HEN11338)

This amendment adds the following sections at the end of S.1038:

Section 3. Additional Sunsets.

This section establishes a new sunset of December 31, 2013, on the use of NSLs. This section also changes the sunset dates for provisions under the FISA Amendments Act of 2008 (Pub. L. No. 110–261) from December 31, 2012 to December 31, 2013. This section also makes conforming amendments to FISA and other applicable laws consistent with the sunsets.

Section 4. Orders for Access to Certain Business Records and Tangible Things.

This section modifies the standard for obtaining a court order for tangible things under FISA. Current law requires the Government to submit a statement of facts showing reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation. However, current law states that the tangible things sought are presumptively relevant if the Government shows that they pertain to (a) a foreign power or an agent of a foreign power, (b) the activities of a suspected agent of a foreign power who is the subject of such an authorized investigation, or (c) an individual in contact with, or known to, an agent of a foreign power who is the subject of such authorized investigation. This section removes the presumption of relevance described above. It requires the Government to provide a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that the tangible things sought are relevant. This ensures that the Government is presenting a thorough statement of facts to the court and strengthens judicial oversight. The Department of Justice has indicated that it does not rely on this presumption, and that its current practice is to provide the Foreign Intelligence Surveillance Court with a complete statement of facts to support issuance of an order.

Section 3(a)(2)(A) alters certain requirements with respect to applications made pursuant to 50 U.S.C. 1861. These changes are not intended to affect or restrict any activities approved by the FISA court under existing statutory authorities. Rather, this provision is intended to ensure that in applications made pursuant to 50 U.S.C. 1861, the Government must submit a statement of the facts it relies on to support its belief that the items or information sought are relevant to an authorized investigation and that such relevance is not to be presumed based on the presence of certain factors.

To obtain bookseller records or library records that contain personally identifiable information, the Government must provide a statement of facts showing reasonable grounds to believe the tangible things are relevant to an authorized investigation and pertain to (a) an agent of a foreign power, (b) the activities of a suspected agent, or (c) an individual in contact with or known to a suspected agent of foreign power subject to the investigation. ''Bookseller records'' are defined as meaning any transactional records reflecting the purchase or rental of books, journals, or magazines, whether in digital or print form. The Department of Justice has already agreed to implement this requirement administratively.

This section also requires court review of minimization procedures. Finally, this section includes transition procedures to ensure that any order in effect at the time of enactment remains in effect until the expiration of the order.

Section 5. Orders for Pen Registers and Trap and Trace Devices for Foreign Intelligence Purposes.

Under current law, in order to obtain a FISA pen/trap, the Government must certify that the information sought is merely foreign intelligence information or is relevant to an investigation to protect against terrorism. The bill modifies the standard for obtaining a pen/trap to require the Government to provide a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that the information likely to be obtained is relevant. This ensures that the Government is presenting a thorough statement of facts to the court and strengthens judicial oversight.

Section 4(a)(2)(A) alters certain requirements with respect to applications made pursuant to 50 U.S.C. 1842. These changes are not intended to affect or restrict any activities approved by the FISA court under existing statutory authorities. Rather, this provision is intended to ensure that in applications made pursuant to 50 U.S.C. 1842, the Government must submit a statement of the facts it relies on to support its belief that the items or information sought are relevant to an authorized investigation.

This section also requires minimization procedures, which are not required under current law, and makes those procedures subject to court review. Section 4(b) governs procedures for minimization of the retention and dissemination of information obtained pursuant to 50 U.S.C. 1842 where appropriate in exceptional circumstances. This provision is intended to provide a statutory footing for the existing practice whereby specialized minimization procedures are implemented in certain limited circumstances under FISA court authorization and oversight.

Finally, this section includes transition procedures to ensure that any order in effect at the time of enactment remains in effect until the expiration of the order.

Section 6. Limitations on Disclosure of National Security Letters.

This section authorizes the Government to prohibit disclosure of the receipt of an NSL (there are four different statutes that authorize NSLs) where a high level official certifies that disclosure may result in danger to the national security, interference with an investigation, or danger to the life or safety of a person. The FBI has stated that its current practice is to require such a certification to include an appropriately thorough statement of facts setting forth the need for nondisclosure.

The recipient of an NSL nondisclosure order may challenge the nondisclosure at any time by notifying the Government of a desire to not comply. Section 7 (below) details the process for doing so.

Section 7. Judicial Review of FISA Orders and NSL Nondisclosure Orders.

This section allows the recipient of a section 215 order for tangible things to challenge the order itself and any nondisclosure order associated with it. Current law requires a recipient to wait a year before challenging a nondisclosure order. This section repeals that one-year mandated delay before a recipient of an order for tangible things can challenge such a nondisclosure order in court. It also repeals a provision added to the law in 2006 stating that a conclusive presumption in favor of the Government shall apply where a high level official certifies that disclosure of the order for tangible things would endanger national security or interfere with diplomatic relations.

This section also corrects the constitutional defects in the issuance of nondisclosure orders on NSLs as found by the Second Circuit Court of Appeals in Doe v. Mukasey, 549 F.3d 861 (2d Cir. 2008), and adopts the concepts suggested by that court for a constitutionally sound process. Id. at 883–84. The bill allows the recipient of an NSL with a nondisclosure order to notify the Government at any time that it wishes to challenge the nondisclosure order. The Government then has 30 days to seek a court order in Federal district court to compel compliance with the nondisclosure order. The court has authority to set the terms of a nondisclosure order as appropriate to the circumstances, but must afford substantial weight to the Government's argument in favor of nondisclosure.

According to current Department of Justice policy, all NSLs must include a notice that informs recipients of the opportunity to contest the nondisclosure requirement through the Government-initiated judicial review. This section states that the government's application for an NSL nondisclosure order may be filed either in the district within which the authorized investigation is conducted or in the jurisdiction where the recipient's business is located. This option will ease the burden on the recipient in challenging the nondisclosure order.

This section requires the Government to notify any entity that challenges a nondisclosure order when the need for nondisclosure is terminated. The Department of Justice agreed to implement this measure administratively in December 2010; therefore, this section will codify current practice.

The bill also requires FISA court approval of minimization procedures in relation to the issuance of a section 215 order for production of tangible things, similar to the

court approval required for other FISA authorities such as wiretaps, physical searches, and pen register and trap and trace devices.

Section 8. Certification for Access to Telephone Toll and Transactional Records.

This section codifies current FBI practice in issuing an NSL, and augments oversight and transparency. Current law requires only that an official certify that the information requested in the NSL is relevant to, or sought for, an authorized investigation to protect against international terrorism or clandestine intelligence activities, or for a law enforcement investigation, counterintelligence inquiry, or security determination. This section adds a requirement that the FBI retain a written statement of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to such an authorized investigation. This statement of specific facts will not be included in the NSL itself, but will be available for internal review and Office of Inspector General audits. The Department of Justice has stated that it is current policy for the FBI to retain a statement of specific facts showing the information sought through NSLs is relevant to an authorized investigation.

Section 9. Public Reporting on National Security Letters.

This section requires reporting of aggregate numbers based upon the total number of all NSLs issued each year, as opposed to by individual NSL. This section ensures that the FBI can keep an accurate record of the information it must disclose by allowing it to report both on persons who are the subject of an authorized national security investigation, and on individuals who have been in contact with or otherwise directly linked to the subject of an authorized national security investigation.

Section 10. Public Reporting on the Foreign Intelligence Surveillance Act.

This section requires that the Government produce an annual unclassified report on how the authorities under FISA are used, including their impact on the privacy of United States persons. This report shall be easily accessible on the Internet.

Section 11. Audits.

This section requires the DOJ Office of Inspector General to conduct audits of the use of three surveillance tools: 1) orders for tangible things under section 215 of the 2001 Patriot Act, or section 501 of FISA; 2) pen registers and trap and trace devices under section 402 of FISA; and 3) the use of NSLs. The audits will cover the years 2007 through 2013. The scope of such audits includes a comprehensive analysis of the effectiveness and use of the investigative authorities provided to the Government, including any improper or illegal use of such authorities. This section also requires the Inspectors General of the Intelligence Community to submit separate reports that also review these three provisions. The audits covering the years 2007–2009 must be completed by March 31, 2012. The audits for the years 2010–2011 must be completed by March, 31, 2013. The audits for the years 2012–2013 must be completed by March, 31, 2015. These due dates ensure that Congress will have time to fully consider the findings of the audits prior to the June 1, 2015 sunsets in the underlying bill.

Section 12. Delayed Notice Search Warrants.

Current law requires notification of a delayed notice search warrant within 30 days. This section requires notification of a delayed notice search warrant within seven days, or a longer period if justified.

Section 13. NSL Procedures.

Current law does not require minimization procedures be established, but on October 1, 2010, the Attorney General adopted procedures concerning the collection, use, and storage of information obtained in response to NSLs. This section requires that the Attorney General periodically review, and revise as necessary, those procedures, and to give due consideration to the privacy interests of individuals and the need to protect national security. If the Attorney General makes any significant changes to these NSL procedures, the Attorney General is required under this section to notify Congress, and to submit a copy of the changes.

Section 14. Severability.

This section includes a severability clause that will ensure that in the event any part of the bill or any amendment to the bill is found to be unconstitutional the remainder of the bill will not be affected.

Section 15. Offset.

This section includes a $9,000,000 offset from the Department of Justice Assets Forfeiture Fund for any direct spending that could be incurred by the provisions of the bill.

Section 16. Electronic Surveillance.

This section is intended to amend the FISA wiretap statute (50 U.S.C. 1805(c)(1)(A)) so as to require law enforcement to identify ''with particularity'' the target of a wiretap request under FISA. The Department of Justice has testified that, in applications to the FISA court for ''roving'' wiretaps, it must provide the court sufficient detail to identify the target with particularity.

Section 17. Effective Date.

This section includes an effective date of 120 days from the date of enactment for the statutory revisions made by this legislation to take effect. This period of time will provide the Government an appropriate amount of time to implement the new procedures required by the legislation.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I am going to speak a little bit about the PATRIOT Act, and then do I have to have consent to do anything else other than that?

The PRESIDING OFFICER. Yes.

Mrs. BOXER. OK. I ask unanimous consent that I be able to speak about two issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I just want to acknowledge the hard work of the chairman of the Intelligence Committee and the chairman of the Judiciary Committee on the PATRIOT Act and to state I am on an amendment Senator LEAHY has authored which has bipartisan support. I think Senator LEAHY's amendment puts a couple of checks and balances in this bill that I think are essential. But I hope we do not have delays because delays would cause trouble for law enforcement people and for the work we are doing to make sure we continue making progress against those who would harm this country.

I fully agree with the statements we have the balance of security and liberty, and I think the Leahy amendment goes a long way toward that. But, again, we need to give law enforcement the tools they need.

HOUSE BUDGET

Mr. President, as we look at what is ahead for us this week, it is not only the PATRIOT Act, but we also are going to be looking for votes on a couple of different budget proposals, and I want to spend some time talking about the Republican budget that passed the House that was originally authored by Representative PAUL RYAN. It sort of got to be known as the Ryan budget, but let's be very clear about this: It is no longer the Ryan budget. It is the Republican budget.

This is why I say this. Out of all the Republicans in the House—and there are a lot of them over there; they run the place; well over 100—every one of them voted for this budget except for, and on our side, not one Democrat.

So let's be clear what a budget is. I served on the Budget Committee in the House and in the Senate. A budget is a very important document, whether you write it in your own home for your own family or you write it in the Senate of the United States. Why? Because in a budget you are looking at all your resources and what your priorities are.

If you have an issue with spending—which a lot of us have in our homes, as well as having it right here; we know that; and certainly in my State—this is when the rubber meets the road and you have to say: What is important to us and what is less important?

The questions you ask when you write a budget around here are: Are our children important? The answer is, yes. Is it important we have clean air to breathe? For me, absolutely. Should the water be pure? Should we make sure the environment is protected? Yes. Should we have a transportation system so we can move people and goods in this century and be the economic world leader? Yes. That is an investment. We go through the budget piece by piece and we decide what is crucial.

Of course, we need a strong military. Having said that, some of us believe it is time to wind down the two wars we are in in Afghanistan and Iraq that is costing us $12 billion a month. We can use those funds back home and still keep the kind of counterterrorism forces we must keep, I believe, in the region and bring that money home.

There is a lot of talk, a lot of words are thrown around about how to balance a budget. I have to say, I was fortunate enough to be here, thanks to the good people of my State, during the Clinton years, and we had similar issues. What were the issues? We were running in the red. We had a deficit, we had a debt, and we had to make sure the economy kept growing in a robust fashion. Do you know what we did? We sat around and said: These are the investments that are important to us.

Today I would argue it is still education, it is infrastructure, it is the environment, it is clean energy. Those are what will move us forward. Over here are the issues where we look out and say: How can we get some revenue? One of the ways is what the Democrats said the other day. We said it is time to end corporate welfare for the biggest oil companies in the world that are—listen to this—two, three, and four on the Fortune 500 and are paying a lower tax rate than a nurse. Can I say that one more time? These big multinational oil companies that are charging us an arm and a leg are paying a lower tax rate than a nurse or a truckdriver or a firefighter in an effective tax rate. That is the truth. But yet and still, the power of those special interests looms over this Chamber, and we were not able to end that corporate welfare and start to reduce this deficit.

So there are places to go to reduce the deficit. I say, start by eliminating corporate welfare for the people who do not need it. Start by asking billionaires and multimillionaires to pay their fair share. Then we do not have to hurt the people of this country, the great middle class of this country, the children. But every day in every way, that is what these battles are about.

So today I want to talk about the Republican budget and just look at it from the standpoint of Medicare and look at it from the standpoint of seniors and, more specifically, look at it from the standpoint of women on Medicare who make up 56 percent of those on Medicare.

Thank goodness the people in this country are tuning in to this debate. They are tuning in. A lot of what we say here just flies over the country and no one pays attention. It is complex, it is wonky, and the rest. This is an easy one. The Republican budget kills Medicare as we know it. Pretty simple. People are asking themselves across this Nation: Do they want to kill Medicare as I know it?

Senator MIKULSKI, who has just arrived on the Senate floor, has organized the women. In the next 5 minutes I will summarize what I said and turn to her.

The Republican budget is a disaster for seniors and for those on Medicare. It is worse than a disaster. Newt Gingrich said, 15 years ago: Let Medicare wither on the vine. That means starving it. The Republican budget just kills it outright. They lost patience with that idea. The Republican House-passed budget brings a devastating cost to seniors for Medicare.

Let me show you the cost. Listen to this: The average income of senior women in this country in a year is $14,430. The health care cost they will have to pay under the Ryan budget is almost all that money, $12,500. So the Ryan Republican budget devastates Medicare and says to a senior woman, who makes $14,000 a year, that her health care costs are going to cost her $12,000.

What is she going to do with the other $2,000? Well, that would be probably, if she is fortunate, maybe 3 months' rent; in California, 1 month's rent. Then what does she do? Starve? I will tell you what she will do. She will not have health coverage.

This is America under the Republican vision? Going back to the days where our senior citizens had no dignity? I just cannot imagine it. I cannot imagine it.

The woman earns $14,000. She is supposed to spend $12,000 on health care. Forget it. She is not going to do it. Who in their right mind would ask a woman—a senior woman, who worked and played by the rules, who more than likely is a widow, who is living off Social Security—who in their right mind would ask her to face double—double—the cost of health care she now pays? I will give you the answer. House Republicans. That is what they voted for. I am not making it up. This is what they voted for.

Now you have people running away from it, running toward it. They do not know which way to go on it. But do you know what. When we vote, I hope they run far away from this because this is a disaster.

Let me show you another chart. This Republican budget ends Medicare as we know it, and it takes the benefit away from the senior and gives it straight to this guy. Who is this guy? He is very happy. Behind him is a chart that says: ''Health Care Profits.'' On the other side it talks about the CEO of the company and his income. The House Republican budget takes the benefit away from the senior and gives it straight to the insurance company. Imagine. Do you know what this guy makes, the average CEO of a health insurance company? Mr. President, remember, I told you the average senior woman makes $14,000 a year. He makes $12.2 million a year. Oh, hooray for the Republicans. They are taking a benefit away from a woman who has lived by the rules, who has raised a family and stood by that family, and in her golden years they take away her money and they give it to this fat cat over here. It makes me ill. But I better watch out because the next thing you know, they will take away my health care, and where will I go?

Profits in these companies are up 41 percent from the previous year. Every once in a while a political party stands for something that shows who they are, and I think we are seeing it here. They voted to continue corporate welfare for the biggest multinational oil companies that are just running to the bank, and their CEOs make more than this guy by a few million. Now, this week, we are voting on their budget, which gives more to the CEO of an insurance company and steals it away from the average senior woman.

The last chart I am going to show is this one: There is a health care benefit in place for senior citizens who are on Medicare. By the way, I was very disturbed when we voted for it because in that bill, at the insistence of the Republicans, we told Medicare they cannot negotiate for reasonable drug prices, and that is the way it went down. It was very sad.

Having said that, we have a benefit for senior citizens now. One of the leaders in trying to make sure they get their full benefit has been Senator STABENOW, who is joining us now in the Chamber.

So I will close with this: What we did in our health care reform budget is to say that seniors will now be covered for basically all of their health care costs. The Republican budget cancels that out, and they now say seniors have to pay for all of their prescription drugs. Even with their insurance, there will be this period of time: the uncovered benefit called the doughnut hole. People call it different things. That means immediately—if the Republican budget passed now—my seniors in California, who are in that category getting help on their prescription drugs, 400,000 of them, would have to pay $9,000 more over the next decade—$9,000 more—for their prescription drugs.

Mr. President, I have given you just a bit of the picture of what the Ryan budget does. I have just focused on the Medicare piece. That whole budget—the Republican budget, started by Ryan, embraced by the Republicans—is a disaster for seniors, for women, for children, and it is a hot time in the old town tonight for big CEOs of health insurance companies. That is what it is, and we should bring it down.

I am happy to now yield for Senator MIKULSKI, who will have the time in her own right.

I say to Senator MIKULSKI, thank you very much for your leadership on this issue.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank Senator BOXER very much for her steadfast stance for American women.

Today, the Democratic women have come to the floor to talk about the terrible impact the Republican budget coming from the House and getting started in the Senate has on women.

After I speak, I will be followed by Senators STABENOW and SHAHEEN and then Senator BLUMENTHAL. Other colleagues want to join us. Senator MCCASKILL is in Missouri, as she should be, with her constituents. Senators FEINSTEIN and KLOBUCHAR are chairing hearings.

But let me get right to my position. You know, the Republicans—we are not going to call this the Ryan budget because whether it is the Ryan budget, the Toomey budget, whatever, it is the wrong budget for America, and it continues the radical Republican attack on women they began in H.R. 1. They started to attack us by taking away our health care, our family planning. Now they are back at it again.

The Republican budget takes away our health care, and there are no ifs,

ands, or buts about it. We are not going to put up with it. No matter what they try to take away from us, we are not going to let it happen.

What do I mean by that? Well, let's start with Medicare. Medicare is the single most important health care program in America for seniors. Women are the majority users of Medicare because we live longer.

When the Republicans want to talk about taking away or changing Medicare as we know it, what is it that they mean? They are going to take away a guaranteed benefit and convert it into guaranteed profits for insurance companies. They talk about a voucher program. It is a payment for care that does not go to a senior but goes to an insurance company. People believe Medicare should be that they go to the doctors they need, get the prescriptions their doctors say they need, and they have follow-up and consistent care. No matter what, when the Republicans say this is going to give grandma more choice, more choice to do what? Be at the mercy of insurance company executives who ever-shrink benefits package and ever-expand premiums, all of which—government subsidizes their profits instead of providing a safety net so that if you are old and sick in America, you get the care you need, choose the doctor you want, and get the prescription drugs necessary. Under the Republican budget, Federal dollars turned over to the insurance companies will force people to pay more. In my own home State, it will mean $6,000 more in health care.

But they don't stop just at Medicare; they go on to Medicaid. Now, ''Medicaid'' sounds like a bad word or they have made it sound like a bad word, that it is a budget-buster. But, make no mistake, Medicaid primarily pays for nursing home bills, nursing home bills for middle-class Americans who need it to turn to nursing home care for a loved one who may have Alzheimer's or Parkinson's or Lou Gehrig's disease. You don't go into a nursing home because it is a lifestyle choice; it is usually a lifesaving mandate. In order to do that, there is no government program to help you, so you have to spend down your life savings to qualify for Medicaid, and then Medicaid will help you pay for those bills. But under the Republican budget, they are going to pull the rug out from anyone who has a loved one in a nursing home.

Go out and talk to young families who are part of the sandwich generation, those who are caring for their aging parents and know they have to make sure they can help pay these long-term care costs while they are worrying about how to send their kids to college. Once more, they are trying to undermine the safety-net protections for middle-class Americans.

One thing the Republican plan does—it is a guaranteed bailout for insurance companies. Then they even go a step further. And I know my colleagues will talk about what the defunding of health care will do. I want to talk about the defunding of NIH, the cuts to NIH.

The National Institutes of Health will also be cut under the Republican assault on women. What are they talking about by shrinking NIH? When you shrink the National Institutes of Health, that means there will be setbacks and delays to find that cure for Alzheimer's, that cure for Lou Gehrig's disease, that cure for Parkinson's disease. Right now, there are 5.5 million people living with Alzheimer's. It is predicted that by the year 2050, 50 million Americans will have Alzheimer's. And 1.5 million have Parkinson's disease.

These are not numbers and statistics; these are families who need help. They certainly need Medicare. They might need long-term care. But they also need to know their government is on their side. We can have races for cures, and we can have walks for the memory programs with the Alzheimer's Association. We can't find cures for diseases on private philanthropy, and the drug companies aren't investing the way they should in finding these new cures. We can't undermine this, whether you are cutting Medicare, which women need; Medicaid, which is the safety net for nursing home care; and even the research to find the cure for these diseases.

Now, whom does this affect? It affects people at all ages. It affects constituents of mine who have worked very hard building automobiles and working in steel mills, working in offices, working hard to be good patriotic people. It goes to even a former member of our Supreme Court, Sandra Day O'Connor, whose husband was gripped by Alzheimer's, and that is one of the reasons she stepped down when she did, because she was going to take care of him. Alzheimer's is an equal-opportunity disease. It hits all incomes and all ZIP Codes. But they are going to take a hit because of the Republican budget.

We are just going to shine a light on this. This is not about a more frugal government. This is not about limited government. This is about government abandoning its responsibility to the American people. And while we are busy promoting democracy over there, let's make sure we continue to provide health care right back here in America.

I now yield the floor for a real champion to women and seniors, my colleague, Senator STABENOW.

The PRESIDING OFFICER (Mr. BLUMENTHAL.) The Senator from Michigan.

Ms. STABENOW. Thank you, Mr. President, and thank you so much to our dean of the delegation, our dean of the women Senators, who has not only been here the longest but has been the strongest advocate, the strongest consistent voice for women, for seniors, and for children that we have had in our country. We thank you for that and for bringing us together and your leadership in giving us the opportunity to come and talk about what are very serious ramifications of the budget passed by the House of Representatives.

Let me first start—I want to talk about Medicare because that has the biggest impact, but let me say that as we look at the budgets that have been proposed by the House, by House Republicans this year, the current budget as well as next year's budget that was passed, we are seeing attacks on women and children, from prenatal care forward to nursing homes at the end of life.

With my hat on as chair of the Agriculture Committee, we oversee the nutrition programs for the country, and I was absolutely appalled that the largest cuts that were proposed as we were negotiating the budget for this year in the Department of Agriculture was the WIC Program—Women, Infants and Children—prenatal nutrition for moms who are pregnant and healthy foods for moms and babies as they move forward through their first year of life and beyond. It is hard to believe that would be the No. 1 cut, the largest cut in the Department of Agriculture budget, but that was the original proposal from this year. Now we go forward and we look at the budget that was actually passed for the coming year by the Republican House, and it is really astounding when we look at the priorities.

The Republican budget essentially ends Medicare. It eliminates Medicare as we know it. Folks have said to me: Oh, they really do not mean that; they really are not going to do that. Yes. They passed that. It is not just a proposal someone had; they actually passed it as an intact insurance plan.

Medicare has been a wonderful success story for our country. Social Security and Medicare together have been great American success stories, lifting a generation of older Americans, the majority of them women, out of poverty and allowing them to be healthy longer in life, a generation of people, a generation of women, because the majority of women—particularly as we look at people of older age, the majority of people on Medicare are women.

I think about my own mom at 85 going strong and the blessing to watch her on Mother's Day be able to play with my two grandchildren—they are the most beautiful grandchildren in the world—3-year-old Lily and 1-year-old Walter, and to have my mother still be healthy because of access to health care at age 85, that is a success story. That is a gift we have all joined together as a country to give to our families, to older Americans, to our parents and grandparents and to future generations. That gift would be eliminated, that ability to have Medicare, and most of that elimination would be, unfortunately, an attack on women.

Seniors will pay double. The amount they will pay under the plan passed by

the House is $6,359 more than they currently pay now. Really, what does that mean? Well, right now under Medicare, the current system in copays and deductibles and so on for the average senior is about $6,000, $6,154. Under the Republican plan passed by the House, that would double—more than double.

What does that mean to the average women who is retired? Well, the average woman senior has an income of $14,430—$14,430—and under the Republican plan her health care costs would be $12,500. I don't know about you, Mr. President, but the idea of living on roughly $2,000 for the year, for your rent or mortgage or food or clothing or gasoline—certainly not gasoline, given that the price of gas is impossible. It is absolutely impossible. And this is what is coming for the average woman who is retired, over age 65, under the plan passed by the House of Representatives.

Now, why would they be doing this? Why would they be doing this? Well, unfortunately, it is to continue to allow them to provide tax breaks for the wealthiest Americans, those earning over $1 million a year, and they add more tax breaks in their budget while they are cutting Medicare, and it also protects the special perks for special interests such as the oil companies.

The reality is this: We know there is a huge budget deficit we have to tackle. We also understand that people are living longer and there is work we need to do around both Medicare and Social Security. We have already begun that process in health reform—lengthening the solvency of Medicare for a number of years, taking away overpayments for for-profit insurance companies to save dollars, and focusing on prevention, which saves $500 billion over the next 10 years in Medicare, lengthens the trust fund, and does not cut benefits to seniors. It does not eliminate Medicare. It does not eliminate other insurance plans. It strengthens it for the future. That is one way to go.

But our colleagues in the other House, the Republicans, said: We need to balance the budget, so let's start by eliminating Medicare as we know it. Let's start there, doubling the cost for the average senior, most of whom are women.

We said: Well, there are a lot of choices about where to start to balance the budget. Let's start with the top five oil companies that right now are earning the largest corporate profits in history and still get taxpayer subsidies, some of which started almost 100 years ago when it probably made sense—over 100 years ago—when oil prices were $17 a barrel. Now they are over $100 a barrel—the largest corporate profits ever. They still get taxpayer subsidies.

People in my State are scratching their heads as they are paying higher prices out of one pocket and, as taxpayers, are subsidizing the prices out of the other pocket. Let's start with the billions of dollars that are certainly no longer needed by an industry that is doing extremely well. Let's take away those taxpayer subsidies as a place to start to balance the budget. Let's not start with the tens of millions of people who currently get health care through Medicare, most of whom are women.

The Republican plan goes even further because it also attacks and dramatically cuts and weakens Medicaid, most of which is for low-income seniors in nursing homes, and 77 percent of the people in nursing homes or long-term care facilities are women. Again, 77 percent of those in nursing homes or long-term care facilities who are using Medicaid to help them are women. Again, from prenatal care in the beginning of life to what happens to seniors at the end of life, women in nursing homes across the board are being attacked on women's health care. That makes absolutely no sense.

Certainly those are not the values I believe in—the values we believe in as a country. Certainly those are not the values the people in Michigan have. Starting to balance the budget by going back to seniors, women, and middle-class families who are already taking hit after hit in this economy is not fair. It is certainly not the place I am going to vote to start or I know our Democratic majority will start.

We are going to have an opportunity very soon—in the next day or two—to say yes or no about this plan that was passed by the House, the plan that eliminates Medicare as we know it and puts an insurance company bureaucrat between you and your doctor. Every woman on Medicare would be put into a situation where an insurance company bureaucrat would, once again, be back between her and her doctor as she tries to get the care she needs.

In my judgment, the Republicans' plan has its priorities upside down. Their plan to eliminate Medicare as we know it is good for insurance companies, no question about it. Every single woman would have to go back to a private insurance company, and then the insurance company would get a subsidy at that point. It may be good for insurance companies, but it is bad for seniors, for taxpayers, and certainly bad for American women.

I encourage and implore our colleagues on the other side of the aisle to join with us in saying no and supporting Medicare—the great American success story that it is—and saying no to the efforts to eliminate Medicare as we know it, saying no to the Republican budget, which puts insurance company bureaucrats between you and your doctor. Let's say yes to other areas where we can reduce the deficit, without hurting middle-class families and seniors in this country.

It is my great pleasure to yield for a champion for women's health care and for the State of New Hampshire, Senator JEANNE SHAHEEN.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I commend my colleague, Senator STABENOW, for the great work she has done over a long period of time for women and families in her State of Michigan and throughout the country. I remember her telling me she got involved in politics in order to address a nursing home issue, which disproportionately affects women—just as this budget that passed the House disproportionately affects women and children. I am pleased to be able to join her on the floor, along with my other colleagues.

I also appreciate Senator MIKULSKI's leadership in bringing us together today.

There is no doubt that everybody in the Senate—and those who spoke today—understands we need to deal with this country's debt and deficit. There is no question about that. But the question is, Are we going to do that in a way that is fair to everyone? Unfortunately, the House Republican plan would disproportionately impact women and, in particular, older women.

Make no mistake about it, the Republican budget that passed the House will end Medicare as we know it today. Since women are a majority of all Medicare beneficiaries, any radical change to the Medicare system will disproportionately affect women, and it will, in the long term, hurt so many women in this country. For example, if we take a typical senior on Medicare in my home State of New Hampshire, under the House Republican plan that senior's out-of-pocket health care costs are going to double to $12,000 a year.

As time goes on, those out-of-pocket costs are going to continue to increase. This health care impact on senior women is especially hard because, during most women's working years, they earn less than men. That is still true today—women earn less than men. Women often work part time or leave the workforce while raising families. As a result, they have less retirement savings, on average, and lower Social Security benefits.

So for women who already have earned less, Medicare is a critical source of financial security. It keeps many women out of poverty. The House-passed Republican budget will end that security for seniors who rely on prescription drugs—a real improvement we made when we passed the affordable health care plan because we made great progress toward closing that doughnut hole and helping seniors with the cost of prescription drugs. But what the House Republican plan will do is dramatically increase those costs. Again, in New Hampshire, we have 15,200 seniors who will pay $8.5 million more in just 1 year for their medication. Of course, we all know women tend to live longer than men. As a result, women represent three-quarters of our most vulnerable Medicare beneficiaries—those who are living in nursing homes and assisted living or other long-term care facilities.

When their savings run out—which happens often, given the costs of long-term care—seniors must turn to Medicaid to pay their bills. However, the House Republican budget would also make radical changes to the Medicaid system. So their proposal not only threatens Medicare but it threatens long-term care for millions of women who rely on Medicaid.

The House Republican proposal eliminates the current Medicare system and puts private insurance companies in charge of the health benefits seniors receive. The Republican plan does nothing to reduce the cost of health care. It just shifts that cost of health care onto seniors. What is going to happen when we shift the cost to seniors who can no longer afford to pay for their health care is that they are going to go to emergency rooms, and emergency rooms are not only the most expensive care because we would have eliminated the preventive care that is part of the new Medicare proposal we passed for health care, but everybody who has health insurance winds up paying for those emergency room costs that seniors would not be able to afford to pay. So it is a double cost shifting—a shifting to seniors for the cost of their health care and a shifting of those health care costs to everybody who has insurance.

The House Republican budget will hurt all seniors, but it will especially hurt women because they are the most vulnerable. I hope all our colleagues will join us in voting against the House Republican budget that is on our desk that we expect to take up this week.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BLUMENTHAL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BLUMENTHAL. Madam President, I am very pleased and honored to join my distinguished colleagues—most recently the occupant of the chair—as we pledge to continue to fight to stand for women's health care and to fight the devastating cuts that are incorporated in the House Republican budget.

This fight against these cuts is essential not only for the health of millions of women across the United States but also for our health care system and even for the effort to cut the debt and deficit, which has to be one of our most important goals.

In the end, these cuts are as far from cost-effective as any could possibly be. In the end, they will actually raise the cost of health care in this country because they will deny millions of women and girls preventive health care, which saves money in the long run. Preventive health care enables everyone to avoid the most costly consequences—costly in terms of the pain and suffering and worry and concern that comes from failure to diagnose and treat problems earlier rather than later.

Indisputably, preventive and coordinated health care saves money. This Republican budget will cost more money. It also will have an impact on States, unquestionably. In Connecticut, 114,000 people will lose Medicaid if this program is changed into a block grant program, and Connecticut will lose $16.1 billion in health care benefits if our government in the State of Connecticut will have to shoulder this greater financial burden. The same will be true of other States across the country that will have to bear more of the costs. Taxpayers at the State level will pay those costs.

Again, that is as far from cost-effective as any program could be. The real consequences—the most dramatic and most immediate effect of this very misguided and cruel House Republican budget will be on women and children predominantly because Medicaid and Medicare serve them more than any other part of our population. Medicaid provides, in Connecticut, for example, 77 percent of the public funding for family planning. Medicaid pays for 35 percent of all the births in the State of Connecticut. The burden will fall on them disproportionately, and it will have real human consequences for women and children.

In a very pernicious way, it will also enable and encourage States to wage, at their level, the kind of ideological war on women's health we have seen, unfortunately and unconscionably, at the Federal level. We can already see the beginnings of it. In the State of Indiana, for example, they enacted legislation to prohibit Planned Parenthood from receiving Medicaid funds to be used for women's health care.

Think of it—Medicaid money cut completely for family planning, for cancer screening, for all kinds of preventive services that constitute the bulk of what Planned Parenthood does in Indiana and across the country under a law that is not only bad public policy but also illegal.

I thank the administration for recognizing the illegality of this law. It has done so in a statement recently issued by the Department of Health and Human Services. It has said unequivocally that this Indiana law that prohibits Planned Parenthood health centers from receiving Federal funds for family planning services under Medicaid and title X contravenes Federal law. Now we will ask—and I am circulating a letter to my colleagues to this effect—the Federal Government to take action that will provide real teeth for this statement and show that similar laws now pending in other legislatures, such as Kansas, Oklahoma, and elsewhere, will also bring compliance action from the Federal Government.

The fact of the matter is family planning services provided by Medicaid are a mandatory benefit under Federal law. Congress created this legal program for beneficiaries in 1972, and it was so concerned about the availability of family planning services that the Federal Government and this Congress required that they cover 90 percent of all of the cost of services in this area—an unprecedented incentive and a clear signal as to the importance of these services.

The Indiana law threatens access to vital preventive health care for millions of women in that State. Its precedent threatens the same kind of family planning and preventive care for millions more women across the country. And this body has, in effect, rejected that kind of restriction by a vote of 58 to 42 when we had to consider the continuing resolution just weeks ago.

Finally, this ideological war in Indiana is misguided, it is costly in dollars and in lives, and it should not be tolerated. Certainly it should not be permitted by the kind of approach that is embodied in the House Republican budget. I believe the Members of this body will take a stand against it and fight the kind of war on women's health care the House Republican budget so dramatically reflects.

Mrs. FEINSTEIN. Madam President, I rise to discuss the devastating impact that the House Republican budget would have on seniors, women, children, and families nationwide.

On April 15, 2011, House Republicans passed H. Con. Res. 34, Chairman RYAN's budget. Under the guise of entitlement reform and deficit reduction, House Republicans would instead ensure that the elderly, the poor, pregnant women, and children will be unable to afford health care.

The House Republican budget essentially ends the important entitlement programs Medicare and Medicaid as we know them, all while 72 percent of the budget cuts go to fund tax cuts for the rich. The budget claims $1.5 trillion in savings from winding down the wars in Iraq and Afghanistan, which are already savings that will happen. If you discount those savings, the House Republican budget cuts $4.3 trillion over 10 years, while spending $4.2 trillion on tax cuts for the wealthy, resulting in only $100 billion in deficit reduction. To be blunt, House Republicans are trying to balance the budget on the backs of the poor, the elderly, and our children while rewarding the wealthy.

This budget changes Medicaid from a State-Federal matching program that can adjust to changes in unemployment, poverty, or aging of the population, to a capped amount of Federal funds per State—a block grant. The budget also repeals the health reform law.

Medicaid is the health insurance program for low-income or disabled individuals and families, many of whom are parents in working families. This is not a population who can easily access health insurance elsewhere if their benefits are cut.

If Medicaid was converted to a block grant and the health reform law repealed, California stands to lose an estimated $147.8 billion over the next decade—$87.7 billion through Federal investments in Medi-Cal and $60.1 billion from the Medicaid expansion in health reform. Under the House Republican budget, California would see a 31-percent reduction in Federal dollars over the first 10 years, and by 2021 there would likely be a 41-percent cut in Medicaid enrollment. Mr. President, 7.2 million Medicaid beneficiaries in California could see either reduced benefits or increased out-of-pocket costs, and at least 2 million poor Californians could be kicked off the program.

Low-income pregnant women who depend on Medicaid as a key source of health coverage could be dropped from the program. By converting Medicaid into a block grant, House Republicans would inevitably force States to drop coverage or change eligibility levels, and many more babies could be at risk. Without Medicaid, pregnant women who rely on the program would likely be uninsured and forgo critical prenatal care. This is a serious concern for the health of both the mother and the baby. Babies born to mothers who do not receive prenatal care are three times as likely to be born at a low birth weight and five times more likely to die. A block grant could also result in States dropping coverage for children who need it the most, such as those receiving special needs care.

In California alone, Medicaid care for seniors and the disabled, including nursing home care, would be slashed by almost $54 billion over 10 years.

This budget hurts women, it hurts children, and it hurts the elderly.

The House Republican budget also eliminates Medicare as we know it. Instead of a guaranteed set of health benefits, seniors would receive roughly $8,000 to purchase insurance on the private market. This sounds good, but the bottom line is that it won't cover the costs. Our current Medicare Program has been more effective than the private insurance market at keeping costs down. This means that for an equivalent package of benefits in 2022, under this budget, health care costs for an average 65-year-old will be 40 percent higher. Because the $8,000 will be insufficient to cover the increased cost of care, annual costs the seniors pay out of their own pocket for health care will more than double in 2022, from an estimated $6,150 to $12,500. Essentially, seniors would be getting less money to purchase more expensive care. In 2010, half of all Medicare beneficiaries had incomes less than $21,000. You can see the problem.

Furthermore, the House GOP budget would repeal the health reform law. Repealing the health reform law would reopen the drug-coverage Medicare drug-coverage gap or doughnut hole, that is closed in health reform. This gap forced beneficiaries to pay 100 percent of their drug costs after they exceeded an initial coverage limit. Over 381,000 California seniors are in this coverage gap. House Republicans want these seniors to have to pay $214 million more for prescriptions next year and $4.3 billion more in 2030.

Furthermore, there would no longer be free annual wellness exams under Medicare, meaning over 106,000 Californians could pay over $11.1 million more for annual wellness visits in 2012.

Repealing the health reform law also hurts women. Women in Medicare would no longer receive free mammograms—an important measure to find breast cancer early.

Because of the new health care reform law, in 2014, insurance companies will no longer be able to discriminate based on preexisting health conditions and will no longer be able to charge different premiums for women and men. House Republicans want insurance companies to get back in the driver's seat and be able to charge higher rates based on gender and deny coverage to people with preexisting conditions. About 80 percent of Americans age 65 and older have at least one chronic health condition, meaning it would be more difficult for them to find insurance coverage. Under this budget, pregnancy would once again be considered a preexisting condition. We all know how difficult it is to get coverage. It is a travesty to deny health insurance to women for this reason.

With these and other benefits in the law, women make great strides toward equality in the insurance market. But House Republicans want to eliminate these strides.

The House Republican budget also targets a critical nutrition program for low-income families. It would cut $127 billion, or 20 percent, to the Supplemental Nutrition Assistance Program, SNAP, in the next 10 years alone. In my State alone, 3.7 million individuals are expected to receive food stamps in 2012. Under the House Republican budget, California would lose over $10 billion in food stamp benefits over the next 10 years. As a result, families would see their benefits cut. Low-income families, with average salaries of $28,000 a year, would see their benefits cut by $147 a month.

The continued assault on health care for the poor, the elderly, women, and children is astounding to me. We need to look carefully at our spending and we need to make cuts, and I believe we need to include entitlement programs in the discussion. But changes to these programs and any cuts we make have to be carefully crafted to ensure that the most vulnerable populations receive the least amount of harm. The House Republican budget does not follow this philosophy; instead, it attacks the poor and elderly in the guise of deficit reduction.

I will be voting against this budget when it comes before the full Senate for a vote.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, I rise today to speak in opposition to the proposed reauthorization of the expiring provisions of the PATRIOT Act incorporated in S. 1038. I have to tell you, I find reauthorization especially troubling since we have waited until the last minute and are now being told we must rush this bill through the Senate of the United States.

There are a number of PATRIOT Act provisions that are permanent, and they remain in place to give our intelligence community important tools to fight terrorism. But there are three controversial provisions we are debating, commonly known as roving wiretap, lone wolf, and business records. I have to tell you, at least from my point of view—and I think there are other Senators here who agree with me—they are ripe for abuse, and they threaten Americans' constitutional freedoms.

As I start my remarks at the onset, I want to state that I firmly believe, as we all do, that terrorism is a serious threat to our great country, the United States, and we have to be focused like no other time in our history in seeking to protect our people, the American people.

I sit on the Senate Armed Services Committee and the Senate Intelligence Committee. On those two committees, much of my attention is centered on keeping Americans safe, both here and abroad. I recognize that despite bin Laden's death—which we all celebrate because justice was delivered—we still live in a world where terrorism is a serious threat to our country, our economy, and to American lives.

Our government does need the appropriate surveillance and antiterrorism tools to achieve these important goals—indeed, many of the PATRIOT Act's provisions which I support and have made our Nation safer since those devastating attacks on that day we will always remember, on 9/11, we know that for a fact. But the problem we confront today is there are three provisions we are debating that fail to strike the right balance between keeping us safe, while protecting the privacy rights of Coloradans and all Americans.

Instead, these three provisions are far too susceptible to abuse by the Federal Government, even in the name of keeping us safe from terrorism. I do not say this lightly, but my concerns about some of these provisions have only grown since I have been briefed on their interpretation and their implementation as a member of the Intelligence Committee.

Let me share some examples. Currently, the intelligence community can place wide-ranging wiretaps on Americans without even identifying the target or the location of such surveillance. That is one concern. Second concern. The intelligence community can target individuals who have no connection to terrorist organizations. A third concern I have is they can collect business records on law-abiding Americans who have no connection to terrorism. We ought to be able to at least agree that the source of an investigation under the PATRIOT Act should have a terrorist-related focus. If we cannot limit investigations to terrorism, my concern is, where do they end? Is there no amount of information our government can collect that should be off-limits? I know Coloradans are demanding that we at least place commonsense limits on government investigations and link data collection to terrorist-related activities.

If we pass this bill to extend the PATRIOT Act until 2015, it would mean that for 4 more years the Federal Government will continue to have unrestrained access to private information about Americans who have no connection to terrorism, with little to no accountability as to how these powers are used.

Again, I wish to go back because we all agree the intelligence community needs effective tools to combat terrorism. But we must provide those tools in a way that protects the constitutional freedoms of our people and lives up to the standard of transparency democracy demands.

The three controversial provisions I have mentioned can be much better balanced to protect our people. Yet it seems to me that many of my colleagues, many of our colleagues, oppose any changes. By making the PATRIOT Act provisions I have outlined permanent, we would be, in effect, preventing debate on them ever again.

To travel that path would be to threaten constitutional and civil liberties we hold dear in this country. That is not the right path. Let me be clear. I do not oppose the reauthorization of these three provisions of the PATRIOT Act, but I do aim to bring forward some commonsense reforms that will allow us to strike an important balance between keeping our Nation safe, on the one hand, while also protecting privacy and civil liberties.

Toward that goal, I have worked side by side with my colleagues in coming up with commonsense fixes that could receive bipartisan support. Senator WYDEN from Oregon has filed an amendment, which I have cosponsored, that would require the Department of Justice disclose to Congress the official legal interpretation of the provisions of the PATRIOT Act. While I believe our intelligence practices should be kept secret, I do not believe the government's official interpretation of these laws should be kept secret.

I have also filed my own amendments to address some of the problems I see with the three expiring provisions. The first amendment I have filed is bipartisan with Senator PAUL of Kentucky, who is on the floor, and Senator WYDEN, who has joined as well. Our amendment would modify the roving wiretap authority under section 206 of the PATRIOT Act.

Specifically, our bipartisan amendment would require intelligence agencies to identify either the target or the place to be wiretapped. They currently do not have to do so. I believe that when seeking to collect intelligence, law enforcement should at least have to identify who is being targeted.

I have also filed an amendment to address the so-called ''lone wolf'' provision which currently allows the government to conduct wiretap surveillance on individuals, even when that person has no connection to a government or a terrorist organization.

This amendment would simply require that should the intelligence community use the ''lone wolf'' provision, that Congress simply be notified—again, a safeguard that is not in place as we stand here today. Without safeguards like that, how do we in this body conduct our constitutional duties of oversight?

Finally, I was joined by Senator WYDEN in filing an amendment designed to narrow the scope of business record materials that can be collected under section 215 of the PATRIOT Act. This amendment would still allow law enforcement to use the PATRIOT Act to obtain such records but would require these entities to demonstrate that the records are in some way connected to terrorism or clandestine intelligence activities.

Right now, law enforcement can currently obtain any kind of records. In fact, the PATRIOT Act's only limitation states that such information has to be related to any tangible thing. That is right. As long as these business records are related to any tangible thing, the U.S. Government can require businesses to turn over information on all their customers, whether or not there is any link to terrorism.

Mr. WYDEN. Would my colleague yield for a question?

Mr. UDALL of Colorado. Yes.

Mr. WYDEN. It seems to me the Senator has laid out the case for why there needs to be a thoughtful debate about the PATRIOT Act and what is necessary to strike the key balance between fighting terrorism ferociously and protecting our liberties.

I am interested in what my colleague thinks about the proposition of how you have a thoughtful debate on these issues, when there is secret law where, in effect, the interpretation of the law, as it stands today, is kept secret. So here we are, Senators on the floor, and we have colleagues of both political parties wanting to participate. Certainly, if you are an American, you are in Oregon or Colorado, you are listening in, you want to be part of this discussion. But yet the executive branch keeps secret how they are interpreting the law.

What is the Senator's sense about how we have a thoughtful debate if that continues?

Mr. UDALL of Colorado. The Senator from Oregon has put his finger on why it is so important to have a debate on the floor and not rush these provisions to the House because of a deadline that I think we can push back. We can, as you know, extend the PATRIOT Act in its present form a number of other days or a number of weeks in order to get this right.

But the Senator from Oregon makes the powerful point that the law should not be classified—as far as its interpretation goes. Of course, we can protect sources and methods and operations, as we well should. Both of us serve on the Intelligence Committee. We are privy to some information that should be classified. But we have come to the floor to make this case because of what we have learned on the Intelligence Committee.

Mr. WYDEN. Well said.

Mr. UDALL of Colorado. I thank the Senator for his question. I look forward to his comments in a few minutes. The Senator from Oregon, in effect, points out that these are just a few of the reform ideas we could debate. But without further debate on any of these issues, this or any other administration can abuse the PATRIOT Act and could actually deny us, as Members of Congress, whether in this Congress or future Congresses, the opportunity to fulfill our oversight responsibilities on behalf of the American people.

I voted against the original passage of the PATRIOT Act in 2001, and I plan to vote against the reauthorization of the expiring provisions this week, unless we implement some reforms that will sensibly restrain these overly broad provisions. Simply put—again, to make the point that the Senator from Oregon made so importantly—I believe Congress is granting powers to the executive branch that lead to abuse and, frankly, shield the executive branch from accountability.

It has been 10 years since we first passed this law, and there has been very little opportunity to improve the law. I resist this rush to again rubberstamp policies that threaten the very liberty we hold dear. I recently supported a short-term extensions of the expiring provisions before us as a bridge to take time and debate and amend the PATRIOT Act and its controversial provisions.

But we were notified—unfortunately, a few days ago—that we would be voting on a 4-year extension of these expiring provisions. That is not the way to assure Americans that we are diligently considering these important public decisions.

In Federalist 51, James Madison, whom we venerate, who was the author of many of the documents that structure the way in which we organize and operate our democracy, wrote: ''In

framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.''

The bill before us does not live up to that standard. I believe it seriously risks the constitutional freedoms of our people. We need to strike a better balance between giving our national security and law enforcement officials the tools necessary to keep us safe, while not damaging the very Constitution we have sworn to support and defend.

By passing an unamended reauthorization, we are assuring that Americans will live with the status quo for 4 more long years. I believe this bill may well be a lost opportunity to improve the balance between our security and our civil liberties. That is not the result that our Founding Fathers envisioned, and it is not a result that our constituents want.

For these reasons, if the PATRIOT Act provisions are not amended, I plan to vote no on the motion to invoke cloture and on passage of S. 1038. Before I yield the floor, I wish to make one last historical reference.

Ben Franklin, one of our Founding Fathers, said, compellingly and presciently: ''A society that would sacrifice essential liberties for short-term security deserves neither.''

I think that is the question before us. There is a way forward. There is a way to keep the PATRIOT Act in place to protect our national security but also to protect our essential liberties. But in order to do that, we have to have a chance to debate and pass these important amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before my colleague leaves the Chamber, I wished to tell him what a welcome addition he has been to the Intelligence Committee. I have served on that committee for 10 years. We have had excellent chairs—first, Senator ROBERTS, then Senator ROCKEFELLER, Senator FEINSTEIN.

So we continue to try to look for bipartisan support for trying to strike that balance between collective security and individual liberty. I am struck both by the clarity of your statement and the fact that those who are going to vote on these amendments and the American people who are listening in tonight ought to be able to get, in a straightforward, easy-to-access fashion, how the executive branch is currently interpreting the PATRIOT Act.

The fact is, law professors give assignments to their students to write analyses of the PATRIOT Act. The Congressional Research Service actually has an analysis out. But it is not possible to get the official interpretation of how the U.S. Government frames this law as far as the operations are so essential for our country. The Senator has laid it out very well. It is a pleasure to serve with him on the Intelligence Committee.

Mr. President, let me sum up with what this issue has come down to, to me.

These are dangerous times. If you go into the Intelligence Committee several times a week, as Senator UDALL and I do, you come away with the indisputable judgment that there are threats to the well-being of this country, that there are people who do not wish our citizens well. In these dangerous times, the sources and methods of our antiterror operations absolutely must be kept secret. That is fundamental to the work of the intelligence community—keeping the sources and methods of those who serve us so gallantly secret and ensuring that they are as safe as possible.

But while we protect those sources and methods, the laws that authorize them should not be kept secret from the American people. That is what this is all about—whether the laws that authorize the operations that are so essential, which have been passed by the Congress—that their interpretation should be kept secret from the American people. I call it ''secret law.'' I want to say to this body, yes, we need secret operations, but secret law is bad for our democracy. It will undermine the confidence the American people have in our intelligence operations.

You might recall that it was only a few years ago, during the Bush administration, that they secretly reinterpreted the warrantless wiretapping statutes to say that it was possible to wiretap our people without a warrant. When it came out, it took years to sort that out, with the executive branch and the Congress working together. I don't want to see that happen again. So that is why I have joined Senator UDALL in these amendments, and we hope we can get bipartisan support for what we are trying to do and especially ensure that the official interpretation of the PATRIOT Act, an important intelligent statute, is made public to the American people, and I think it can be done in a way without jeopardizing our sources and methods.

One of the reasons Senator UDALL, I, and others feel so strongly about this is—and Senator UDALL touched on this—that this is a time when Congress should finally say we are not just going to keep kicking the can down the road. That is what has been done again and again over the last decade. The PATRIOT Act was passed a decade ago, during a period of understandable fear, having suffered in our Nation the greatest terrorist attack in our history. So the PATRIOT Act was born out of those great fears.

It seems to me that now is the time to revisit that and ensure that a better job is done of striking the balance between fighting terror and protecting individual liberty. Unfortunately, every time over the last decade there has been an effort to do just that—revisit this and strike a better balance—we have had the same pattern; we have said we just have to get it done quickly and we really don't have any time to consider, for example, the thoughtful ideas Senator UDALL has mentioned. I just don't think it is time now to once again put off a real debate on the PATRIOT Act for yet another always-distant day.

There is an irony about what this is all about, and that is that Senators are going to want to consider the amendments of Senator UDALL—and I believe Senator PAUL is here, and others who care strongly about this. It is awfully hard to have a thoughtful debate on these specific amendments, whether it is the Leahy amendment, the Paul amendment, the Udall amendment, or the ones we have together, if, in fact, you cannot figure out how the executive branch is interpreting the law.

An open and informed debate on the PATRIOT Act requires that we get beyond the fact that the executive branch relies on the secret legal interpretations to support their work, and Members of the Senate try to figure out what those interpretations are.

Here are the rules. If a U.S. Senator wants to go to the Intelligence Committee—and I think Senator UDALL touched on this—the Senator can go there and get a briefing. Many Members of Congress, however, don't have staff members who are cleared for those kinds of briefings. Under Senate rules, it is not possible for Senators to come down here and discuss what they may have picked up in one of those classified briefings.

I just don't think, with respect to the legal interpretation, that is what the American people believe we ought to be doing. The American people want secret operations protected. They understand what sources and methods are all about and that we have to have secrecy, for example, for those in the intelligence community to get the information we need about sleeper cells and terrorist groups and threats we learn about in the Intelligence Committee. But that is very different from keeping these legal interpretations secret.

In my view, the current situation is simply unacceptable. The American people recognize that their government can better protect national security if it sometimes is allowed to operate in secrecy. They certainly don't expect the executive branch to publish every detail about how intelligence is collected. Certainly, Americans never expected George Washington to tell them about his plans for observing troop movement at Yorktown. But Americans have always expected their government to operate within the boundaries of publicly understood law. As voters, they certainly have a right to know how the law is being interpreted so that the American people can ratify or reject decisions made on their behalf. To put it another way, Americans know their government will sometimes conduct secret operations, but they

don't believe the government ought to be writing secret law.

The reason we have felt so strongly about this issue of secret law is that it violates the trust Americans place in their government and it undermines public confidence in government agencies and institutions, making it harder to operate effectively. I was on the Intelligence Committee, before Senator UDALL joined us, when Americans were pretty much stunned to learn the Bush administration had been secretly claiming for years that warrantless wiretapping was legal. My own view was that disclosure significantly undermined the public trust in the Department of Justice and our national intelligence agencies. Our phones were ringing off the hook for days when the American people learned about it. The Congress and executive branch had to retrench and figure out how to sort it out.

I certainly believe the public will be surprised again when they learn about some of the interpretations of the PATRIOT Act. Government officials cannot hope to indefinitely prevent the American people from learning the truth. This is going to come out, colleagues. It is going to come out at some point, just as it came out during the Bush administration about warrantless wiretapping. It is going to come out. It is not going to be helpful to the kind of dialog we want to have with the American people, an open and honest dialog, to just continue this practice of secret law.

The reason I am offering or seeking to offer this amendment with Senator UDALL, Senator MERKLEY, and other colleagues with respect to changing the practice of secret law is that we have raised this issue numerous times—on the Senate floor, in correspondence, in meetings with senior administration officials—and I have been joined in the past by other Senators, and we talked about it with respect to the problem in the news media. But the problem persists and the gap between the public's understanding of the PATRIOT Act and the government's secret interpretation of it remains today. Once information has been labeled ''secret,'' there is a strong bureaucratic tendency—it almost gets in the bureaucratic chromosomes to keep it secret and not revisit the original decision.

So what Senator UDALL and I and colleagues seek to do is correct this problem. We seek to offer an amendment that states that it is entirely appropriate for particular intelligence collection techniques to be kept secret but that the laws that authorize these techniques should not be kept secret and should instead be transparent to the public. We seek to offer an amendment that states that U.S. Government officials should not secretly reinterpret public laws and statutes in a manner that is inconsistent with the public's understanding of these laws or describe the execution of these laws in a way that misinforms or misleads the public.

So under this proposal, the Attorney General and Director of National Intelligence would—and we note this—provide a classified report to the congressional intelligence committees. It makes it clear that intelligence collection continues to go forward, and our amendment would simply require the Attorney General to publicly lay out the legal basis for the intelligence activities described in the report. The amendment specifically directs the Attorney General not to describe specific collection, programs, or activities, but simply to fully describe the legal interpretations and analyses necessary to understand the government's official interpretation of the law.

Let me close—I see colleagues waiting to speak—and say that we can have honest and legitimate disagreements about exactly how broad intelligence collection authorities ought to be, and members of the public do not expect to know all of the details about how those authorities are used, but I hope each Senator would agree that the law itself should not be kept secret and that the government should always be open and honest with the American people about what the law means. All that Senator UDALL and I seek to do, along with other colleagues, is to restore some of that openness and honesty in an area where it is now needed. I hope colleagues on the floor of the Senate and in the Obama administration will join in that effort.

Mr. PRYOR. Mr. President, I want to briefly comment on yesterday's cloture vote on the motion to proceed to S.1038, the extension of the amendments to the Foreign Intelligence Surveillance Act.

Unfortunately, yesterday I was attending the funeral of a very close family friend who passed away on Friday. However, I wish to express my support for the motion to proceed and the extensions themselves. I believe these extensions, section 6001 (a) of the Intelligence Reform and Terrorism Prevention Act, and sections 206 and 215 of the USA PATRIOT Act, continue to provide the right balance between safety and individual rights.

I understand those with concerns about the breadth and scope of this law and believe it is important to continue to ask these questions and examine the limits and extent of these amendments as well as other aspects of the law.

In the wake of bin Laden's recent killing, the importance and significance of our intelligence resources are without question. Our intelligence community must have the necessary tools at its disposal to protect us from the threat of terrorism. This legislation helps clarify what is legal and proper, and I believe strikes a balance between prioritizing our safety without trampling individual rights.

Mr. BROWN of Ohio. Mr. President, yesterday the Senate conducted a procedural vote on whether it would begin deliberation on S. 1038, the PATRIOT Sunsets Extension Act of 2011.

Due to inclement weather, my flight from Cleveland returned to Cleveland, and I was unable to make this vote. However, if I had been in attendance, I would have voted ''yea.''

I have long expressed concerns about the PATRIOT Act, specifically about its scope and effectiveness. For too long, Americans have been asked to cede their constitutional rights in the name of national security. There is no question that our law enforcement authorities need the tools to fight terrorism and keep Americans safe, but security is not a zero sum game. Indeed, it is certainly possible to extend the PATRIOT Act while building in some additional checks and balances. But this extension does not include them.

Despite my misgivings about this extension, I believe that it is important that the Senate directly address this legislation that is important to both our Nation's security and well as our civil liberties.

Mr. WHITEHOUSE. Mr. President, on May 23, 2011, due to my daughter's college graduation, I was absent for vote No. 75, a motion to invoke cloture on the motion to proceed to S. 1038, the USA PATRIOT Sunset Extension Act of 2011. Had I been present, I would have voted ''yea.''

Mr. BROWN of Massachusetts. Mr. President, on May 23 the Senate voted on a motion to invoke cloture on the motion to proceed to the USA PATRIOT Act Sunset Extension Act of 2011, S. 193. I was necessarily absent for this vote. Had I been able to vote, I would have voted ''aye.'' The act will extend sections 206 and 215 of the Patriot Act and section 6001 of the Intelligence Reform and Terrorism Prevention Act, IRTPA, for 4 more years before they expire on May 27. The PATRIOT Act, with these provisions, has provided vital tools and resources to our counterterrorism professionals that have enabled them to disrupt dozens of active terrorist plots. By empowering our counterterrorism professionals to do their jobs, we can continue to disrupt and prevent terrorist attacks in the homeland and abroad. I voted for the 90-day extension of these three provisions in February and I look forward to voting on final passage of the long-term extension this week.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISRAEL AND PALESTINE

Mr. MORAN. Mr. President, on Thursday, in a speech on the Middle East, President Obama said:

We believe the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps so that secure and

recognized borders are established for both states.

While the President has since sought to revise or clarify his remarks, it is valuable to remind ourselves what a retreat to the pre-1967 boundaries would mean for the security of Israel.

After Israel declared independence in 1948, it was invaded by five neighboring armies, and an armistice line was subsequently established in 1949. This line is known as the Green Line. While some refer to it as a border, it was never officially recognized as an international border.

If Israel were forced to retreat to the Green Line—its pre-1967 boundary—Israel would be only 9 miles wide at its narrowest point. Such close borders are untenable today and would subject Israel's population to great and grave danger.

Following the Six Day War, U.N. Security Council Resolution 242 affirmed Israel's right to secure and recognized borders. As Robert Satloff of the Washington Institute for Near East Policy points out, calls for Israel to withdraw to those ''secure and recognized'' borders have never been interpreted as being synonymous with the pre-1967 boundaries. A quick look at a map of Israel will explain why these boundaries cannot be secure.

Prime Minister Netanyahu today, in a joint meeting of Congress, reminded us that ''Israel needs unique security arrangements because of its unique size.'' Two-thirds of Israel's population and infrastructure lies within a 60-mile strip along the Mediterranean coastline. Tel Aviv would only be 11 miles away from a Palestinian state with its border as the Green Line, and Ben Gurion Airport, Israel's largest and busiest, would be a mere 4 miles away. It would only take one rocket fired at Ben Gurion for the entire airport to shut down, isolating Israel from the rest of the world.

With the Green Line as its border, the dangers to Israel come not only because of the short distances between major Israeli cities and a Palestinian state, but also from the geography of the land. The 60-mile strip along Israel's coastline lies below the hilly heights of the West Bank. With control of the high terrain, terrorists could easily target and terrorize much of Israel's population just as they have from Gaza but with even more deadly accuracy.

When Israel unilaterally withdrew from Gaza in 2005, Israel's leaders had hoped the Palestinians would demonstrate they could live peacefully with Israel. Instead, Hamas assumed power and Israelis living in the southern part of Israel have had thousands of rockets and mortar attacks directed at them. So far this year, more than 300 rockets and mortars have been fired from Gaza, terrorizing countless families in Israel.

The threats to Israel from a Palestinian state with its border as the Green Line are clearly understood in this context—especially since Palestinian Authority President Mahmoud Abbas' Fatah party inked an accord with Hamas to form a unity government earlier this month. Although welcomed by President Abbas, Hamas still calls for the destruction of the State of Israel. The United States designated Hamas a terrorist organization in 1997. It has killed more than 500 innocent civilians, including dozens of Americans.

The United States does not negotiate with terrorists, and we should not expect or ask Israel to do so either. Instead of calling for negotiations based on boundaries that leave Israel vulnerable to attack, the President should have insisted the Palestinians prove they are ready to be responsible and peaceful neighbors. As Prime Minister Netanyahu said:

> The Palestinian Authority must choose either peace with Israel or peace with Hamas. There is no possibility for peace with both.

Israel's security must come first. Any efforts to force Israel to withdraw to its pre-1967 boundaries—the 1949 armistice line—would undermine Israel's security and threaten the future of any peace talk.

In 2004, the Senate overwhelmingly passed S. Res. 393, which endorsed U.S. policy for a Middle East peace process. In particular, the Senate supported a statement that said:

> In light of realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949.

I believe it is important for the United States to again oppose any plan to force Israel to withdraw to those 1949 boundaries. Borders between Israel and a Palestinian state should be decided only by Israel and Palestinian leaders through direct negotiations. Borders should not be a precondition set for negotiations by the President of the United States or anyone else. As Prime Minister Netanyahu said today: ''Peace cannot be imposed.''

Since recognizing Israel 11 minutes after its founding in 1948, our two countries have worked side by side to advance democracy and peace and stability. Israel is our staunchest ally in a volatile part of the world. We cannot now turn our backs on Israel by forcing it to take a position in negotiations that would endanger its very existence.

I oppose any plan or effort to force Israel back to those 1949 armistice lines and encourage my colleagues to work to see that is not the case. I ask my colleagues to support that position as well.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

Mr. REID. Mr. President, we have been working for several days—I have been working on it for a lot longer than several days—but for several days publicly on a process to move forward with the PATRIOT Act. We have worked over the last several days to work something out that is an excellent compromise. Is this bill something everybody in the Senate likes or everybody in the House likes? The answer is no. But we all know how important it is that we continue this legislation. So Senator MCCONNELL and I and Speaker BOEHNER have agreed on a way to move forward.

The alternative is to have a long long-term extension that the House would send us and I don't think that would be to anyone's benefit, so we are moving forward. I have tried to do it with the bill that we invoked cloture on yesterday. I have had many conversations with Senator PAUL and others, but principally him, and tried to come up with a process to allow Senator PAUL to offer amendments—and others to offer amendments; it is not just him. I have been unsuccessful.

I understand Senator PAUL's exasperation because this is something that is extremely important to him and there was every desire, from my perspective and I think that of this body, to have a full and complete debate on the PATRIOT Act. But the Senate does not always work that way.

There have been a lot of things that have gotten in the way and the time is suddenly upon us. We have to complete this legislation by midnight on Thursday. We cannot let the PATRIOT Act expire. I have a responsibility to try to get this bill done as soon as possible, in spite of the fact that some of my Senators and some Republican Senators would rather I did it some other way at some other time. But I can't do that. I have to get this done.

We know, since bin Laden was killed, that there has been a lot of information discovered from him about what he did. One thing that is very clear is that he had instructed all of his lieutenants to focus all of their attention on the United States and its assets. So we cannot let this expire and I am going to do everything I can to make sure this does not happen.

Senator PAUL and I have tried to work out something. He feels strongly about at least three of his amendments. I say, even though he and I disagree on a number of things politically, I have found in his time here in the Senate, as it relates to me, he is a very pleasant man with strong feelings. I have only the highest regard for him and I am sorry I cannot make this system we have in the Senate more in keeping with his desires to get things done. But as he will learn over the years, it is always difficult to get what you want in the Senate. It doesn't mean you won't get it, but sometimes you have to wait and get it done at some subsequent time.

Senator PAUL has been very upfront with me. He has never hidden a punch.

He said: I feel strongly about a number of these amendments and I am not going to agree to let this go forward unless I have these amendments, and he has been very reasonable. He has brought his number down from 11 to 3 or 4 and I appreciate that. But the time has come for me to take some action.

Again, I repeat, I do not have the luxury of waiting for a better time. However, I would like to be able to allow the Senator from Kentucky to give a few of his stem-winding speeches. He does a very good job presenting himself. But in order to expedite what I think is so important to continue the country's intelligence operations, I am going to move to table the pending motion to proceed to S. 1038. Following that vote, I am going to ask the Senate to proceed to a message received from the House earlier today. I will then move to concur with the amendment which will be the extension of the PATRIOT Act and I will file cloture on that motion.

Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. PAUL (when his name was called). Present.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER), the Senator from California (Mrs. FEINSTEIN), the Senator from North Carolina (Mrs. HAGAN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Mrs. LANDRIEU), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote ''nay.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 13, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—74

Akaka	Coburn	Hatch
Alexander	Cochran	Hoeven
Ayotte	Collins	Inhofe
Barrasso	Conrad	Inouye
Baucus	Coons	Isakson
Bennet	Corker	Johanns
Blumenthal	Cornyn	Johnson (WI)
Boozman	Crapo	Kerry
Boxer	DeMint	Kirk
Brown (MA)	Durbin	Klobuchar
Brown (OH)	Enzi	Kohl
Burr	Franken	Kyl
Cardin	Gillibrand	Lautenberg
Casey	Graham	Levin
Chambliss	Grassley	Lugar
Coats	Harkin	Manchin
McCain	Pryor	Stabenow
McConnell	Reed	Thune
Menendez	Reid	Toomey
Mikulski	Risch	Vitter
Moran	Rockefeller	Warner
Murray	Rubio	Webb
Nelson (NE)	Sessions	Whitehouse
Nelson (FL)	Shelby	Wicker
Portman	Snowe	

NAYS—13

Begich	Merkley	Udall (CO)
Bingaman	Murkowski	Udall (NM)
Cantwell	Sanders	Wyden
Heller	Shaheen	
Lee	Tester	

ANSWERED ''PRESENT''—1

Paul

NOT VOTING—12

Blunt	Hutchison	Lieberman
Carper	Johnson (SD)	McCaskill
Feinstein	Landrieu	Roberts
Hagan	Leahy	Schumer

The motion was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

SMALL BUSINESS ADDITIONAL TEMPORARY EXTENSION ACT OF 2011

Mr. REID. Mr. President, I now ask the Chair to lay before the Senate a message from the House with respect to S. 990.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 990) entitled ''An Act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes,'' do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 112–1 (125 Stat. 3), is amended by striking ''May 31, 2011'' each place it appears and inserting ''September 30, 2011''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on May 30, 2011.

SEC. 2. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

MOTION TO CONCUR WITH AMENDMENT NO. 347

Mr. REID. Mr. President, I move to concur in the House amendment to S. 990 with an amendment, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to S. 990, with an amendment numbered 347.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''PATRIOT Sunsets Extension Act of 2011''.

SEC. 2. SUNSET EXTENSIONS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50. U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; ''50 U.S.C. 1801 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

MOTION TO REFER WITH INSTRUCTIONS

Mr. REID moves to refer the House message to the Committee on Small Business with instructions to report back forthwith with an amendment as follows:

At the appropriate place, insert the following:

This Act shall become effective 3 days after enactment.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to S. 990, with an amendment No. 347.

Harry Reid, Jack Reed, Carl Levin, Jeanne Shaheen, Mark R. Warner, Richard Blumenthal, Kent Conrad, Kirsten E. Gillibrand, Dianne Feinstein, Bill Nelson, John D. Rockefeller IV, Joseph I. Lieberman, Barbara A. Mikulski, Charles E. Schumer, Debbie Stabenow, Thomas R. Carper, Mark L. Pryor.

Mr. REID. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 348 TO AMENDMENT NO. 347

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 348 to amendment No. 347.

The amendment is as follows:

At the appropriate place, insert the following:

This Act shall become effective 3 days after enactment.

MOTION TO REFER WITH AMENDMENT NO. 349

Mr. REID. I have a motion to refer the House message to the Senate Small Business Committee with instructions to report back forthwith with an amendment.